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Legal Preparation of the Battlefield: Issues in Combined Operations

by

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Joint Military Operations Course.

The contents of this paper reflect my personal views and are not necessarily endorsed by the Naval War College, the Department of the Navy, or the Department of the Army.

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ABSTRACT of

Legal Preparation of the Battlefield: Issues in Combined Operations

Variations in international treaty obligations and domestic policy frequently result in conflicts of law and policy among allies during military operations. Accounting for these variations must be part of operational planning.

This JMO paper discusses issues arising when allies and coalition partners in combined operations have different laws and policies with regard to such matters as antipersonnel land mines, rules of engagement, and protected places. The sometimes widely divergent approach taken by allies and coalition members to these and other legal issues must be a factor in operational planning for combined operations. Recognition, analysis, and, when possible, reconciliation of domestic law and policy differences among members of a coalition or alliance should be included in the CINC's planning.

The purpose of this paper is not to provide a survey of pertinent international and domestic law or to propose legal changes. Rather, this paper discusses several areas in which U.S. policy and law may be in conflict with some of our closest allies. The U.S. is likely to engage in future combined military operations with these countries. Consequently, any legal divergence between the U.S. and these allies is certain to be brought into sharp focus. Accordingly, this paper uses these conflicts of law as a vehicle by which to discuss those aspects of operational planning most likely to be affected. While the conflicts in themselves are serious and merit attention in international legal circles, their impact on operational planning deserves development of a set of planning considerations by which combined commanders may effectively devise and adapt operational plans to meet requirements of U.S. and allied law.

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Combined operations are becoming as indispensable to the U.S. military as joint military operations. From the successes of the Gulf War coalition through operations in Somalia, Haiti, and now in regions of the former Yugoslavia, the U.S. participation has been characterized by alliance or coalition membership. These experiences demonstrate the benefit to multinational a force (MNF) when command relationships, doctrine, logistic sustainment, and other factors support interoperability and mutual understanding among allies. They also serve as harbingers of things to come, particularly the challenges to achieving unity of effort across the spectrum of combined operations.

Of increasing importance to unity of effort in combined operations is the degree to which the domestic policies and laws, including treaty obligations, of the members of a coalition or an alliance are in consonance or discord. Recognition, analysis, and, when possible, reconciliation of domestic policy and legal conflicts among members of a coalition or alliance should be included in the planning for any combined operation. For example, have all members of the alliance or coalition ratified the Ottawa Treaty and agreed to completely discontinue the use of anti-personnel land mines? What differences and similarities are found among coalition members regarding their national rules of engagement for individual and collective self-defense? Do all members agree that dams, dikes, and nuclear power generating stations can be targeted when militarily necessary? What if one or more members of the coalition or alliance give combatant status to terrorists, but not to mercenaries, and the remaining members take the opposite approach?

As should readily be recognized, these and many other differences of law and policy at the national level can be critical in achieving and maintaining the unity of effort so important to any

combined operation. In that light, this paper will discuss the implications of differences in law and policy among members of MNFs, highlight several of the more significant of these issues, and propose some solutions that may mitigate, if not alleviate, problems created by these variations.

THE INTERSECTION OF JOINT DOCTRINE WITH LAW AND POLICY

In preparing for military operations, U.S. commanders and their legal advisors traditionally have taught and focused on U.S. laws, including the treaties to which the United States is a party. In MNF operations, however, this is only part of the legal picture. The domestic laws pertaining to the operations of allies tend to constrain their actions just as U.S. laws may affect U.S. operations. When there is a discrepancy between foreign and U.S. law on a particular issue, its discovery should not occur during the course of combined military operations. Although differences among nations in their laws and policies are a consequence of decisions made at the national government level, those that influence combined military operations, such as those described above, may have the most effect at the operational level of command. And, while legal commentators focus on what the law is, how it developed, and where it is going, the most important question in combined operations often deals with the context in which a national law or policy will be applied. Two or more countries will rarely, if ever, approach a coalition or alliance with identical laws regarding all pertinent aspects of military operations.

United States joint doctrine is beginning to recognize the realities and challenges that combined operations present to operational commanders. Joint Pub 3-16 cautions that issues of legality, as well as other considerations, must be identified early in the planning process. The publication presciently states that nations will "not relinquish their national interests by participating in multinational operations."[1] The accompanying discussion focuses on command

authority, such as whether and under what conditions U.S. forces will be under the operational control (OPCON) or tactical control (TACON) of foreign commanders. Of equal importance, however, is the fact the national laws under which a commander exercises command authority also set forth limitations on that authority. Sources of these limitations include treaties which, upon ratification are the "law of the land," and federal statutes and regulations. Included in the latter are directives such as the Chairman of the Joint Chiefs of Staff instruction on the Standing Rules of Engagement (SROE),[2] which has been approved by the National Command Authorities (NCA).

Obviously, there seldom will be total agreement among allies and coalition members regarding all aspects of a combined operation. Unlike disagreements over matters such as tactics, techniques, and procedures, which can be resolved by negotiation, compromise, and constructive interpretation, conflicts of national law and policy are not always so easily reconciled. Further, when differences between the national laws and policies of coalition members and allies do arise, the U.S. commander of coalition or allied forces cannot assume U.S. law and policy automatically will control the resolution of the dispute. The U.S. itself is not prepared to make such a concession when under OPCON of a foreign commander. For example, U.S. commanders under the OPCON of a foreign commander maintain dual reporting channels, to the foreign commander and to higher U.S. military authorities. If an issue perceived as illegal under U.S. or international law cannot be resolved with the foreign commander, it will be referred to higher U.S. authorities.[3] What is important to note here is that U.S. commanders are not directed to follow the law or policy of the foreign command when a conflict arises. They are directed by U.S. doctrine to resolve or elevate the issue. Neither can a U.S. commander expect allies or coalition forces

placed under U.S. OPCON or TACON to take measures that violate their domestic laws and policies.

The international expectation that one's own military forces will abide by domestic law and policy, even when under foreign command in combined operations, may not, at first blush, seem particularly surprising or difficult to implement. In practice, however, it poses problems sometimes subtle or far-reaching. The following scenarios, drawn from a command post training exercise, a real-world deployment, and a hypothetical situation, illustrate several contemporary legal and policy issues facing commanders of MNFs.

THE OTTAWA TREATY: THE U.K. AND ANTI-PERSONNEL LAND MINES

In the fall of 1997, the U.S. Atlantic Command (ACOM) conducted Unified Endeavor, a command post exercise (CPX) involving U.S. forces and forces from the United Kingdom (U.K.).[4] The scenario involved a notional deployment of forces in what amounted to an economy of force operation. The Combined and Joint Task Force (CJTF) was commanded by a U.S. Marine major general. The CJTF was to deploy in defensive positions in a friendly country that was threatened with attack by a hostile neighbor. Its mission was to deter attack, and if deterrence failed, to defeat an attack and maintain the territorial integrity of the friendly country. United States forces included a Marine Expeditionary Force (MEF) and an Army division. The U.K. contributed a light infantry brigade commanded by a brigadier. This brigade was positioned on the left flank of the allied forces, with the Army division in the middle, and the MEF on the right flank.

In carrying out the CPX, daily video-teleconferences were conducted by the commander, CJTF, with his senior operational commanders, including the U.K. brigadier. Additionally, liaison

officers were exchanged and present at the CJTF tactical operations center (TOC) as well as at the Army division and the U.K. brigade TOCs.

As planning for the defense progressed, at the U.K. TOC the U.S. liaison officers representing the adjacent U.S. Army division learned, to their surprise, that although the U.K. forces would employ anti-tank mines, they would not use anti-personnel land mines (APLM) to delay or interfere with the ability of enemy soldiers to disable the anti-tank mines. Neither would the U.K. forces use APLM as obstacles and impediments to movement of soldiers on foot. The U.K. brigade staff informed the American officers that the U.K. was committed to signing the Ottawa Treaty, which would ban all APLM. In fact, subsequent to the Unified Endeavor exercise, the U.K. did sign the Ottawa Treaty, which bans the production, use, and sale of anti-personnel land mines. The governments of 40 countries had ratified the treaty as of September 16, 1998, thereby making it effective for those 40 countries, including the U.K., in March 1999.[5] By their ratification, these countries have pledged to destroy all stockpiles of APLM within four years and to clear away all emplaced APLM within ten years.[6]

After coordination with the U.S. division commander and his staff, the U.S. liaison officers proposed that an air scatterable minefield, including anti-personnel mines, be fired in front of U.K. positions anyway. By having the U.S. take these actions, the theory went, the U.K. commander would not be in violation of the U.K.'s soon to be effective obligations under the Ottawa Treaty. The U.S. intent to take this action was communicated to the brigadier commanding the U.K. forces. With great tact, but firmness, he rejected the approach as simply allowing the U.S. to serve as his agent in employing the APLM. In his view, this would result in violation of his country's obligations under the Ottawa Treaty, once it was effective.

Significant to the Unified Endeavor scenario, parties to the convention have pledged to never "assist, encourage, or induce, in any way, anyone to engage in any activity prohibited" under the Ottawa Treaty.[7] It was this provision that caused the U.K. brigadier to decline the offer of a U.S. deployed air scatterable APLM field in defense of his forces. Had he agreed to the offer, he may have been considered to have "encouraged" or "induced" emplacement of APLM, which, once the Ottawa Treaty was in effect, would have violated its provisions, even though his forces had not actually stocked or used APLM.

U.S. planners continued to review their options. Noting that an attack from the far left that succeeded in overwhelming the U.K. light brigade would carry into the left flank and rear of the U.S. Army division, U.S. planners recognized that a minefield using air scatterable APLM was essential not only to the U.K. forces, but to U.S. forces as well. Consequently, planners proposed to the CJTF commander that an air scatterable APLM field be employed in front of the U.K. positions as a defensive measure intended primarily to protect American forces. In approving this plan, the CJTF commander nevertheless limited the mine emplacement operations, and directed they not begin until it became certain the enemy forces were moving from their present positions toward the border with the host country.

SOMALIA: WHOSE ROE?

Not only differences between countries in their respective treaty obligations, but differences in other areas of law and policy have the potential to cause serious issues in combined operations, including effects on morale and discipline. In a study conducted during Operation Restore Hope in Somalia, including on scene interviews with U.S. soldiers of the 10th Mountain Division in March 1993, sociologists Charles Moskos and Laura Miller analyzed the effects of the

mission on U.S. soldiers. While much of their survey methodology and analysis dealt with soldiers' reactions to the operations based on their race, gender, and duty position, the surveys identified the U.S. rules of engagement (ROE) as a source of contention for many. When attacked by unarmed individuals, U.S. forces were to use the "minimum force necessary under the circumstances and proportional to the threat."[8] The rules did not contemplate use of deadly force to respond to attacks by Somalis throwing rocks, bricks, and other objects. Further, the ROE did not authorize use of deadly force to prevent theft or to restrain individuals.[9]

Interestingly, while at least one commentator believed the U.S. interpreted the ROE to allow more aggressive enforcement than other nations, soldiers interviewed by Moskos and Miller drew the opposite conclusion.[10] The researchers found that U.S. soldiers felt themselves at a disadvantage because they perceived their ROE to be considerably more restrictive than ROE followed by other coalition members. The soldiers believed that other countries' forces had ROE allowing them to beat attackers or to fire into unruly crowds, and that these responses by other forces made them less likely to be attacked in the future.[11] The U.S. soldiers believed their ROE, on the other hand, made them look ridiculous and helpless and invited future attacks against them.[12]

In fact, in January 1993, the commander of the Canadian Airborne Regiment Battle Group (CARBG) in Somalia issued directions authorizing deadly force against "Somalis found inside Canadian compounds or absconding with Canadian kit, whether or not they were armed."[13] In February and March 1993, in three separate shooting incidents, Canadian forces fired on and killed unarmed Somalis.[14] These and a related beating death of an unarmed Somali at the hands of Canadian soldiers ultimately led to a number of courts-martial of Canadian soldiers, up to and

including the commander of the CARBG.

Although the official ROE for Canadian operations in Somalia were approved by the Canadian Chief of Defense Staff and did not authorize use of deadly force against unarmed civilians, they were not the same as those under which U.S. forces operated. In fact, the U.S. had asked coalition members to draft ROE compatible with U.S. ROE, which were provided in an unclassified form to coalition members.[15] This is not to imply that U.S. ROE were necessarily better or more effective. Like the U.S. ROE, the Canadian ROE authorized use of deadly force when confronted with a hostile act or hostile intent. Unlike the U.S. ROE, however, the ROE defined hostile act to include, *inter alia*, "attacks or ... armed force against Canadian forces, Canadian citizens, [and] their property...."[16] In taking an aggressive construction or interpretation of this language, the commander of the CARBG set the stage for subsequent shootings of unarmed Somalis who were believed to be stealing Canadian equipment. While the disconnect between the Canadian defense headquarters in Ottawa and their forces in Somalia was a serious problem, equally troubling for morale and discipline was the apparent policy inconsistency between the U.S. and the Canadian ROEs in language, intent and, especially, application.

PROTOCOL I AND TARGETING PROHIBITIONS

What happens when coalition members do not agree on what legally may be targeted during combat operations? Consider a sustained air operation, such as the air operation the North Atlantic Treaty Organization (NATO) currently is conducting in Kosovo and greater Yugoslavia. Assume that NATO air assets include planes from the U.S., the U.K., Germany, and France, all operating under the TACON of a combined and joint air forces component commander

(CJFACC) from the U.S. Under direction from the NATO commander, these NATO forces have been directed to conduct air interdiction operations to preclude enemy forces from moving into a contested province and conducting ethnic cleansing, again similar to the current operations in Kosovo.

Assume that, in addition to using bridges, enemy forces are using a large dam across a major river to gain access to the contested province from their own territory. As part of the air tasking order, the CJFACC commander includes all bridges and the dam for destruction. Following proper analysis under the law of armed conflict, the U.S. commander has concluded that, although several small villages downstream on the enemy's side of the river are likely to be inundated, the military advantage to be gained by interdicting enemy forces and preventing further widespread murder, rape, and other savagery outweighs the likely consequential civilian deaths, injuries, and property damage downstream from the dam. In assigning targets, the CJFACC staff is cognizant of limits on numbers and types of aircraft available to carry out assigned missions. Accordingly, based on the Tornado aircraft's capabilities and availability, the CJFACC planners have allocated several U.K. Tornados to fly bombing missions to destroy the dam in question.

Under these circumstances, it is likely the U.K. commander will question the legality of the dam as a target in view of his country's obligations under the 1977 Additional Protocol I to the Geneva Conventions.[17] Article 55 of Protocol I prohibits attacks on "dams, dykes and nuclear electrical generating stations," even when they are military objectives if the attack will cause "release of dangerous forces and consequent severe losses among the civilian population."[18] The U.S. is not a party to Protocol I, in part because of concerns that restrictions such as those imposed by article 55 are contrary to what traditionally has been considered to be lawful military

targeting.[19] The U.K. and many other countries have concluded otherwise, however, and ratified the Protocol. As illustrated by this hypothetical, in application, these differences between the U.S. and its allies over governmental policy decisions, can have direct operational effects in multi-national military operations.

LESSONS LEARNED: ANTICIPATING AND RESOLVING DIFFERENCES IN LAW AND POLICY

How does an operational commander prepare to identify and react to differences in law and policy among the national components of a MNF operation? A listing of areas in which multinational operations may be affected by these differences would be extensive, and without a means of identifying and addressing their implications, would be largely useless. On the other hand, while the differences usually are not susceptible to simple solutions, it may be useful to look at actions that operational commanders and their staffs can take to reduce the impact of conflicts and variations in law and policy before a MNF is organized, and then consider those actions that are available to alleviate problems once the MNF is created.

Considerations before a MNF is Organized

Formal alliances, such as NATO, have developed means by which many potential issues of law and policy among alliance members can be resolved during times of peace. In fact, multinational doctrine is developed, in part, through alliances, bilateral arrangements, and multilateral organizations.[20] Status of Forces Agreements (SOFA), including the NATO SOFA, can provide answers in advance to many of the issues that may arise during MNF operations. Status of Forces agreements, however, generally deal with resolving issues between a host nation (receiving state) and the forces of friendly countries (sending states) that have been invited into

the host nation. Typical SOFAs deal with privileges, immunities, and responsibilities, including issues of criminal jurisdiction and taxes.[21] Other international agreements with a host nation may cover storage, access, and security of pre-positioned stocks of a sending state.[22] Unfortunately, neither a SOFA nor other pre-existing international agreements would likely resolve the discrepancies on APLM, ROE, and Protocol I, as described in preceding paragraphs. In fact, with respect to APLM and Protocol I, it is the existence of these treaties and other international agreements that gave rise to the issues to begin with.

What can be accomplished, however, is a concerted effort by commanders and staffs at the combatant command level to learn not only the capabilities and limitations of the various U.S. service components, but also those of probable coalition partners.[23] This can occur in a variety of ways. Realistic exercises, including CPXs such as the Unified Endeavor exercise conducted by ACOM, will force many of these issues to surface, particularly when play of the problem includes the actual participation of allies and coalition partners. By having foreign officers serve in the roles they actually would play in a combined operation, rather than relying on U.S. officers to simulate their decisions, command post exercises will benefit significantly. Allied and coalition commanders and their staffs are best suited to know, understand, and apply their own domestic law and policy to the situations with which they are confronted. The U.K. brigadier in Unified Endeavor, for example, understood implicitly and complied fully with his nation's pending obligations under the Ottawa Treaty, much to the surprise and initial consternation of his U.S. allies.

In the aftermath of the CARBG experience in Somalia, the Canadian government directed a Commission of Inquiry to investigate the circumstances of the operation and provide

recommendations for improvement. The Commission was cognizant of the availability of the unclassified U.S. ROE for Somalia, but did not sense its use in drafting the actual Canadian ROE. One of the specific recommendations of the Commission was for the Canadian Chief of Defense Staff to ensure a data bank be created and maintained that includes ROE from other countries.[24] For the ROE cell of a warfighting CINC, not only maintaining such a data bank of ROE of likely allies and coalition partners, but actively reviewing it and deriving an understanding of their expected actions in MNF operations should be standard procedure. Similarly, well in advance of actual operations, staff judge advocates and legal advisors must have ready access to copies of the treaty documents and other international agreements that allies have entered. They should be aware of legal obligations that may restrain allies from carrying out certain actions, e.g., employing APLM, targeting dams, dikes, and nuclear power generating facilities, and the like.

In addition to exercises, other training, including international military education, provides a broad range of opportunities for U.S. and potential allies and coalition partners to develop mutual understanding of capabilities and limitations. Those involved with these programs should be challenged to make a concerted effort to derive from their interaction useful knowledge about how foreign law and policy may affect the actions of MNFs in future operations.

Closely related are the opportunities presented by multinational conferences, such as the series of international conferences at San Remo, Italy on the law of armed conflict at sea.[25] These are opportunities to ascertain in a structured setting the positions of friends and potential adversaries on a variety of international military issues. Valuable too are military exchange programs, particularly those in which U.S. and foreign officers are assigned as staff members to combatant commands where their knowledge and experience will assist in recognizing and

planning for conflicts of law and policy. In fact, these officers should be identified as potential liaison officers when MNFs are being created. Their baseline of knowledge will provide a significant advantage over officers without similar experience.

Considerations Upon Activation of a MNF

Liaison officers are critical to bridging the gap between the actions taken to identify and resolve differences in law and policy before a MNF is activated and those taken afterwards. Joint Pub 3-16 notes that "[d]ifferences in doctrine, organization, equipment, and training demand a more robust liaison structure to facilitate operations."[26] As the foregoing discussion should make apparent, the differences among nations in law and policy also add their weight to the demand for effective liaison structures in combined operations. While Joint Pub 3-16 focuses on liaison teams knowledgeable about "structure, capabilities, weapons systems, logistics, and planning methods," operational liaison teams also should be prepared to contribute information on how the law and policy of their countries will affect military operations. Without this resource, the commander of a MNF may be surprised at a military partner's actions, as were U.S. forces during the Unified Endeavor exercise when the U.K. commander refused to use APLM.

Coordination centers also are suggested by Joint Pub 3-16 as means by which to control a MNF.[27] The Joint Pub drafters envision coordination centers as having logistics support functions, including movement control, contracting, medical support, and engineering.[28] Along with these functions could be included a coordination center for international law and policy. This would allow issues broader than ROE discrepancies an opportunity to be raised, discussed, and, regardless of resolution, more rapidly brought to the attention of the appropriate command and staff elements in the MNF. Many issues regarding treaty obligations would be ripe for

consideration by operations and planning staffs, since they will influence force employment, targets, and weapons systems, as illustrated by the three scenarios described previously.

Why are liaison officers and coordination centers dedicated resolving variations in national law and policy so important to combined operations? The answer, in part, rests with the effects a particular country's treaty obligations and policy may have on its ability to conduct military operations. While a country may have superb diplomatic, ethical, and humanitarian reasons for entering a treaty or other obligation, the practical consequences can be a distinct limitation on the country's ability to conduct certain military operations. The U.K.'s commitment under Article 55, Protocol I, to essentially forego military strikes against dams and related objects is such a limitation. While the decision to discontinue use of APLM and to not destroy dams has laudable humanitarian repercussions, it may have equally serious military consequences. In some cases these limitations can create vulnerabilities among allies and coalition partners. Liaison officers, coordination centers, and related endeavors can be important to the efforts by military planners to compensate for comparative vulnerabilities among partners.[29] When allies cannot use APLM or target certain objects, they may, in fact, leave not only their own forces vulnerable, but those of their fellow MNF members as well. Had the U.K. light brigade on the left flank of the U.S. forces been overrun, for example, it would have threatened the entire CJTF.

Commanders must be aware in advance of these national limitations and have the opportunity to plan accordingly. This can mean a reassessment of the rationale for employing APLM, as in Unified Endeavor, or it can mean a revision of the air tasking order to ensure air forces from a country are not employed in such a manner as to cause violation of obligations under the Geneva Conventions. In either case, early recognition of limitations through liaison

officers and coordination centers gives the operational commander the opportunity to make best use of those resources available for employment.

CONCLUSION

As the U.S. increasingly finds its military forces participating in combined operations with allies and coalition partners, the domestic laws and policies of these countries will play more substantial roles in military planning. It is imperative that significant discrepancies between allies in treaty obligations and national policies be identified well in advance, and that their discovery not be delayed until plans are put into execution. Early identification and recognition will ensure coalition partners are not tasked to perform missions that violate their domestic law and policy. It can also work to minimize the potential for morale and discipline problems when countries have policies that, while unintended, provide the perception, if not the reality, of unequal and undisciplined application, such as the Canadian experience with ROE in Somalia. Most important, however, is the fact that some differences in law and policy among MNF members may expose forces of component countries, if not the entire MNF, to vulnerabilities created by those differences. Warfighting CINCs and their staffs should have the benefit of training exercises, military exchanges, data banks, international military education programs, liaison officers, and coordinating centers to minimize the chances of a belated discovery that military operations of MNF members unexpectedly will be limited by their domestic laws and policies.

ENDNOTES

1. Joint Chiefs of Staff, Joint Doctrine for Multinational Operations. Joint Pub 3-16 (final coordinating draft) (Washington, D.C.: 2 September 1997) [hereinafter Joint Pub 3-16], II-5.

2. Chairman of the Joint Chiefs of Staff, Standing Rules of Engagement for U.S. Forces. CJCSI 3121.01 (Washington: 1 October 1994).

3. Joint Pub 3-16, II-5.

4. Information regarding the Unified Endeavor exercise is based on the experiences of the author while serving as the Staff Judge Advocate for the 10th Mountain Division and Fort Drum. Aspects of discussion are adapted from a paper submitted in a NWC Operational Law elective.

5. Associated Press, "Land-Mine Pact Approved," The New York Times, 17 September 1998, A13:6. General News Topics/Major Newspapers. Lexis-Nexis Academic Universe (18 September 1998). This research and the text accompanying the note are taken from a research paper completed for the Strategy and Force Planning Course, NWC, 1st trimester, academic year 1998 - 1999.

6. With near-universal endorsement of the Ottawa Treaty, the United States has been left in the less than distinguished company of other non-signers, such as Russia, China, India, Pakistan, Libya, North Korea, Iran, Iraq, and Vietnam. Stephen Chapman, "United States is Falsely Portrayed as Villain by Land-Mine Protesters," St. Louis Post-Dispatch, 10 December 1997, B7. General News Topics/Major Newspapers. Lexis-Nexis Academic Universe (18 September 1998).

7. International and Operational Law Note, "Antipersonnel Land Mines Law and Policy" The Army Lawyer, December 1998, 24, discussing provisions of the Ottawa Treaty.

8. Christian B. Cowdrey, "Shoot, Don't Shoot, Rules of Engagement in Peacekeeping Operations." School of Advanced Studies Monograph, Fort Leavenworth, May 1994, 13.

9. Ibid.

10. Kenneth Allard, Somalia Operations: Lessons Learned. National Defense University Press, Washington, D.C., January 1995, 38.

11. Laura L. Miller and Charles Moskos, "Humanitarians or Warriors?: Race, Gender, and Combat Status in Operation Restore Hope." Armed Forces and Society, Summer 1995, Volume 21, Number 4, 626.

12. Ibid.

13. "Dishonored Legacy: The Lessons of the Somalia Affair." Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia. Canadian Government Printing: Ottawa, Canada, 1997, Vol. 2 [hereinafter Dishonored Legacy], 659.

14. Ibid., 653.

15. The Commission of Inquiry ordered by the Canadian government found that although the U.S. ROE were accompanied by examples of situations to which the ROE were applicable, no such examples were provided to CARBG members from the Canadian ROE drafters. Dishonored Legacy, Vol. 2, 655 - 658.

16. Ibid., 659.

17. 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts. 16 I.L.M 1391 (1978) (entered into force 1985) [hereinafter Protocol I], reprinted in John Norton Moore, Guy B. Roberts, and Robert F. Turner, National Security Law Documents (Durham, North Carolina: Carolina Academic Press, 1995), 229. The U.K. implemented this and other articles of Protocol I with reservations. Letter from Christopher Hulse, HM Ambassador of the United Kingdom to Swiss Government, 28 January 1998, as reprinted by Cornell Law School electronic data base: http://fatty.law.cornell.edu.

18. National Security Law Documents, 243.

19. George P. Schultz, Letter of Submittal to the President: Protocol II Additional to the Geneva Conventions of 12 August 1949 (Washington, D.C., 13 December 1986), reprinted by Oceans Law and Policy Department, Annotated Supplement to the Commander's Handbook on the Law of Naval Operations (Newport: 1997), 5-19 - 5-22.

20. LTC Jay M. Vittori, "Making the case for Multinational Military Doctrine." Joint Forces Quarterly, Spring 1998, 111.

21. U.S. Department of the Army, Operational Law Handbook (Charlottesville, Va.: The Judge Advocate General's School, 1997), 3-1 - 3-2.

22. Ibid., 3-7.

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